

This court denied Mr. Calligan's petition because it concluded that the Indiana courts had correctly applied established federal law in adjudicating his ineffective assistance of counsel claims, and did not make an unreasonable determination of the facts in light of the facts contained in the state court record. Nothing in Mr. Calligan's petition for certification of appealability casts doubt on that conclusion, and the issue does not present a question that is debatable among jurists of reason. *See Kraushaar v. Flanigan*, 45 F.3d 1040 (7th Cir. 1995). Mr. Calligan's argument is not adequate to deserve encouragement to proceed further. Where the court denies a certificate of appealability because petition was without merit, then it should deny *in forma pauperis* status on appeal because the appeal is not taken in good faith. *See Walker v. O'Brien*, 216 F.3d 626,632 (7th Cir. 2000).

For the foregoing reasons, the court **DENIES** the petitioner's motion for a Certificate of Appealability (docket #37) pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure, and **DENIES** his motion for leave to appeal *in forma pauperis* (docket #35). The court advises the petitioner that pursuant to Fed. R. App. P. 22(b), where the district judge denies a certificate of appealability, the applicant for the writ may then request issuance of the certificate by a circuit judge.

SO ORDERED.

DATED: August 14, 2007

s/ Philip P. Simon
Philip P. Simon, Judge
United States District Court